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E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970.

No. 338

BLONDER-TONGUE LABORATORIES, INC.,
Petitioner,

vs.

UNIVERSITY OF ILLINOIS FOUNDATION,

AND

JFD ELECTRONICS CORPORATION,
Respondents.

OBJECTION TO MOTION BY THE FINNEY COMPANY FOR LEAVE TO FILE BRIEF AMICUS CURIAE ON THE MERITS.

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THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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Respondent University of Illinois Foundation objects to the filing by The Finney Company of a brief amicus curiae in support of the position that the Isbell patent in suit is invalid, and presents herewith the following reasons for its refusal to grant consent:

1. The issues which The Finney Company raised in its brief will be adequately treated by the parties. These issues, viz., (1) the relationship between unpredictability and nonobviousness and (2) the circumstances under which a document may be considered properly on file in a library, and hence available as a reference, have both been raised in this case (See the brief of petitioner Blonder-Tongue, pages 23-29). There will be further discussion

of these points in the brief and argument of respondent Foundation.

It is significant that Finney's request for leave to file its brief does not even allege that these issues will not be adequately handled by the parties. Indeed, Finney admits on page 6 of its brief that the first of the questions presented above "is the fundamental point of divergence of the respective, conflicting decisions of the Seventh and Eighth Circuit trial and appellate courts on the issue of validity of the Isbell patent." As such, the issue can hardly fail to be raised and explored in detail before this Court.

Although the second issue cited by Finney was not considered by the Court of Appeals for the Eighth Circuit, the point has been raised by Blonder-Tongue (Brief, pages 26-29) and will therefore be considered by this Court. Finney's brief therefore would serve no purpose other than to expand unnecessarily the volume of material which this Court must consider in coming to its decision.

2. The Finney Company is not a disinterested friend of the Court but is rather, as it admits, a party facing potential liability under the Isbell patent. Under the circumstances, the arguments made by Finney can hardly be treated as a disinterested attempt to shed light on the issues, particularly when the same issues have already been raised and will be treated by the parties to the action.

Respectfully submitted,

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